



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 34064976

Date: NOV. 18, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks classification as an individual of extraordinary ability. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a petroleum engineer who has experience managing oil drilling projects in Russia. The Petitioner intends to continue his work in the energy industry in the United States.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director determined that the Petitioner did not meet claimed criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (v), or (viii). On appeal, the Petitioner asserts that he meets these criteria, as well as the criterion at 8 C.F.R. § 204.5(h)(3)(ix) concerning high salary or remuneration. As more fully discussed below, we conclude that the Petitioner has not met at least three of the required criteria.

Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

As evidence of his eligibility under this criterion, the Petitioner initially submitted an Honorary Certificate from the [REDACTED] which he reasserts on appeal “is a prestigious national award recognizing significant contributions to the fuel and energy complex.” He further asserts that the “certificate is issued to individuals with outstanding achievements in the industry, as confirmed by the [REDACTED] regulations,” and that the certificate’s “extensive participation and competitive selection process underscore its national recognition.” In response to a request for evidence (RFE), the Petitioner provided the following information regarding the certificate:

[T]he criteria set forth by the [REDACTED] for bestowing such recognition emphasize the need for outstanding achievements and contributions spanning a minimum of five years. This requirement underscores the depth and duration of [the Petitioner’s] involvement and impact within the fuel and energy complex, highlighting the sustained nature of his contributions over an extended period.

Additionally, the certificate explicitly acknowledges [the Petitioner’s] role in various aspects of the industry, including operational stability, timely commissioning of facilities, resource efficiency, and cost reduction. These facets represent fundamental pillars of success within the energy sector, indicating that [the Petitioner’s] efforts have not only been substantial but also instrumental in driving tangible improvements and advancements within the field.

The Petitioner's assertions here are not supported by documentation found in the record.¹ Documentation that the Petitioner references in both his RFE response and on appeal consists of his certificate and an order from the [REDACTED] titled "About awarding employees of the fuel and energy complex." The order states only that the certificate is presented to the Petitioner "for a great personal contribution to the development of the fuel and energy complex, many years of conscientious work and in connection with the professional holiday – the Day of Oil and Gas Industry Workers." This document does not identify specific achievements required of a certificate recipient or speak to the recipient selection process. Although the certificate appears to be awarded by a component of the federal government, the record does not include documentation concerning whether the certificate itself is recognized nationally or provide details regarding the scope or scale of competition or eligibility requirements to receive such a certificate. The record does not contain supporting documentation describing what components of a recipient's performance are judged to inform a determination of demonstrated excellence in the field of energy production. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. He has not done so here. As such, the Petitioner has not met the requirements for this criterion.

Documentation of the individual's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).

To demonstrate his eligibility under this criterion, the Petitioner submitted evidence of his paid membership with the Society of Petroleum Engineers, or SPE. The Petitioner included webpages from the organization's website that provide information about its mission, vision, board of directors, and president. On appeal, the Petitioner provides additional webpages from SPE's website and reiterates his initial assertion that membership with the organization requires outstanding achievements as judged by recognized experts in the field. The Petitioner emphasizes SPE's mission and vision statements, which include connecting a global community of energy professionals to exchange knowledge to achieve a "sustainable energy future," and he states that membership benefits, which include access to industry journals and conferences, highlight "the association's focus on maintaining high standards among its members." In addition, he provides the following description of the evidence submitted about SPE:

The documentation provided included detailed information about the SPE Board of Directors, demonstrating that the leadership and review processes within SPE involve individuals who are recognized experts in the field of petroleum engineering. These experts contribute to the development and implementation of SPE's rigorous standards for membership, ensuring that only individuals with significant achievements and contributions in the field are admitted.

...

¹ 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to: the criteria used to grant the awards or prizes; the national or international significance of the awards or prizes in the field; the number of awardees or prize recipients; and limitations on competitors.

The SPE's criteria for professional membership include not only employment or activity in the field but also significant contributions to the industry, demonstrated by technical competence, and adherence to high professional standards. This is evident from the comprehensive suite of benefits offered to members, aimed at empowering professionals in the oil and gas industry to thrive in their careers and contribute to the sustainable energy future envisioned by the organization.

The documentation submitted from SPE's website, however, does not reflect the Petitioner's assertions. It does not include any information about membership standards or qualifications. A page from spe.org depicting the Petitioner's status as a paid member provides his membership identification number, validity dates, and his contact information. Neither the documentation originally submitted nor the information from SPE's website submitted on appeal speak to membership requirements or the expertise of any individuals judging the qualifications of membership applicants. The Petitioner has not supported his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Thus, the Petitioner has not established that he has met the requirements of this criterion.

Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner submitted several letters of recommendation from former colleagues as evidence of his original contributions to the field of oil extraction, and he refers to these letters on appeal as evidence of his eligibility under this criterion. These letters discuss the Petitioner's managerial skills and "deep knowledge of the drilling industry," and they describe his responsibilities and positive contributions to his employers; such contributions include "his role in bringing the company's branch to a leading position in the rating of drilling contractors in Russia" and his role in the "successful implementation of the project to mobilize drilling rigs and drill deep exploration wells in the fields of Eastern Siberia." While these letters demonstrate the Petitioner's important role in achieving the aims of his employers, they do not describe any original contributions that the Petitioner has made within the field of oil extraction or to the oil and gas industry.² We note that, on appeal, the Petitioner also references his certificate from [REDACTED] as "compelling evidence of his significant contributions to the industry." As explained above, the certificate is not accompanied by documentation to establish what specific achievements are required to be awarded the certificate or otherwise demonstrate the significance of the certificate to an awardee within the field. The certificate itself does not speak to whether a recipient has made an original contribution of major significance in the field. The Petitioner has not met the requirements of this criterion.

Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

² 6 USCIS Policy Manual F.2(B)(5), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>. Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise.

Both in response to the RFE and on appeal, the Petitioner points to letters of recommendation from colleagues as evidence of his eligibility under this criterion. These letters describe the Petitioner's positive contributions to his employers' goals and indicate that he has served in leading and critical roles for those companies. The record, however, does not contain probative evidence to demonstrate that these companies are considered to have distinguished reputations. For example, while the Petitioner refers to one company as "a well-known service company in the oil and gas industry" and "a prominent player in the Russian oil industry," he has not provided documentation about the company or its position or level of recognition within the industry. And although the Petitioner initially provided webpages from the website of another company that employed him, the information within those pages is general and does not address the company's reputation in the industry.³ The Petitioner has not met his burden of proof to demonstrate his eligibility under this criterion.

Evidence that the individual has commanded a high salary or other significantly high remuneration for services in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

Because the Petitioner did not identify or claim eligibility under any specific criteria when initially filing his petition, the Director issued an RFE explaining that he could submit evidence to demonstrate his eligibility under any of the criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). On appeal, for the first time, the Petitioner asserts that he has met the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ix) relating to an individual's receipt of a high salary relative to others in the occupational field. The RFE put the Petitioner on notice and allowed him a reasonable opportunity to provide this evidence; therefore, we will not consider evidence submitted under this criterion for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documentation that the Petitioner meets at least three of the ten lesser criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. We therefore reserve this issue.⁴ Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

³ 6 *USCIS Policy Manual* F.2(B)(8), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>. The relative size or longevity of an organization or establishment is not in and of itself a determining factor but is considered together with other information to determine whether a distinguished reputation exists. Other relevant factors for evaluating the reputation of an organization or establishment can include the scale of its customer base or relevant media coverage. Merriam-Webster's online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person."

⁴ *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The Petitioner seeks a highly restrictive visa classification intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. U.S. Citizenship and Immigration Services has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the record indicates that the Petitioner made positive contributions to his employers, but it does not show that this success has translated into individual recognition for the Petitioner at a level that rises to sustained national or international acclaim or demonstrates a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.